

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY AUGUST 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1363

Introduced by Assembly Member Jones

February 22, 2005

An act to amend Sections ~~87206 and 87207 of, and to add Section 87200.5 to, the Government Code, relating to public officials. 1850 and 2620 of the Probate Code, relating to conservatorships and guardianships.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1363, as amended, Jones. ~~Public officials: financial duties. Conservatorships and guardianships.~~

Existing law provides for the periodic review by the court of a conservatorship not less frequently than biennially. Existing law also requires a guardian or conservator to present the accounting of the assets of the estate of the ward or conservatee to the court not less frequently than biennially.

This bill would require those actions to be taken not less frequently than annually.

~~Existing provisions of the Political Reform Act of 1974 require that certain public officers and employees, including the Governor, Lieutenant Governor, Controller, Treasurer, Secretary of State, Superintendent of Public Instruction, Attorney General, and Insurance Commissioner, file reports disclosing, among other matters, their investments, their interests in real property, and their sources of income of greater than a certain value, with specified content. These reports are required to include which of specified ranges of fair market~~

~~value includes the actual value of each of these investments and interests.~~

~~This bill would narrow these ranges of fair market value, and would add additional ranges that include higher market valuations. It would also require each of the statewide elected officials listed above, before taking office, to place all of his or her investments and all of his or her interests in real property in a blind trust. With regard to these blind trusts, the bill would require the disclosure specified above, except that with regard to any assets in the blind trust not known to the elected official, the disclosure would include the amount of income received from the trust, divided into categories of dividends, rents, interest, and capital gains, and the overall market value of the trust, as specified by the trustee.~~

~~Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.~~

~~This bill would impose a state-mandated local program by exposing most persons required to report their investments and interests under the act to potential criminal penalties for failing to properly make the more detailed disclosures of fair market value specified above, and by requiring specified officials to place certain assets into a blind trust or face these penalties.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.~~

~~This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.~~

~~Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: -yes no. State-mandated local program: -yes-no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 1850 of the Probate Code is amended to
2 read:

1 1850. (a) Except as provided in subdivision (b), each
2 conservatorship initiated pursuant to this part shall be reviewed
3 by the court one year after the appointment of the conservator
4 and ~~biennially~~ annually thereafter.

5 (b) This chapter does not apply to either of the following:

6 (1) A conservatorship for an absentee as defined in Section
7 1403.

8 (2) A conservatorship of the estate for a nonresident of this
9 state where the conservatee is not present in this state.

10 *SEC. 2 Section 2620 of the Probate Code is amended to read:*

11 2620. (a) At the expiration of one year from the time of
12 appointment and thereafter not less frequently than ~~biennially~~
13 annually, unless otherwise ordered by the court, the guardian or
14 conservator shall present the accounting of the assets of the estate
15 of the ward or conservatee to the court for settlement and
16 allowance in the manner provided in Chapter 4 (commencing
17 with Section 1060) of Part 1 of Division 3.

18 (b) The final court accounting of the guardian or conservator
19 following the death of the ward or conservatee shall include a
20 court accounting for the period that ended on the date of death
21 and a separate accounting for the period subsequent to the date of
22 death.

23 (c) Along with each court accounting, the guardian or
24 conservator shall file all original account statements from any
25 institution, as defined in Section 2890, or any financial
26 institution, as defined in Section 2892, in which money or other
27 assets of the estate are held or deposited, showing the balance as
28 of the close of the accounting period of the court accounting. If
29 the court accounting is the first court accounting of the
30 guardianship or conservatorship, the guardian or conservator
31 shall provide to the court the account statement for the account
32 balance immediately preceding the date the conservator or
33 guardian was appointed and the account statement or statements
34 for the account through the closing date of the first court
35 accounting. This subdivision shall not apply to the public
36 guardian if the money belonging to the estate is pooled with
37 money belonging to other estates pursuant to Section 2940 and
38 Article 3 (commencing with Section 7640) of Chapter 4 of Part 1
39 of Division 7. Nothing in this section shall affect any other duty
40 or responsibility of the public guardian with regard to managing

1 money belonging to the estate or filing accountings with the
2 court.

3 (d) If any document to be filed with the court under this
4 section contains the ward or conservatee's social security number
5 or any other personal information regarding the ward or
6 conservatee that would not ordinarily be disclosed in a court
7 accounting, an inventory and appraisal, or other nonconfidential
8 pleadings filed in the action, the account statement shall be
9 attached to a separate affidavit describing the character of the
10 document in proper form for filing, captioned "CONFIDENTIAL
11 FINANCIAL STATEMENT" in capital letters. Except as
12 otherwise ordered by the court, the clerk of the court shall keep
13 the document confidential except to the court and subject to
14 disclosure only upon an order of the court.

15 ~~SECTION 1. Section 87200.5 is added to the Government~~
16 ~~Code, to read:~~

17 ~~87200.5. Notwithstanding any other provision of law, the~~
18 ~~Governor, Lieutenant Governor, Controller, Treasurer, Secretary~~
19 ~~of State, Superintendent of Public Instruction, Attorney General,~~
20 ~~and Insurance Commissioner shall each, before taking office,~~
21 ~~place all of his or her investments, and all of his or her interests~~
22 ~~in real property, that would be reportable under Sections 87206~~
23 ~~and 87207 in a qualified blind trust as defined in paragraph (3) of~~
24 ~~subsection (f) of Section 102 of the Appendices to Title 5 of the~~
25 ~~United States Code. Investments so held shall be subject to~~
26 ~~disclosure under Article 2 (commencing with Section 87200) of~~
27 ~~Chapter 7 of Title 9 if known to the public official, and with~~
28 ~~regard to those assets in the blind trust not known to the official,~~
29 ~~that disclosure shall include the amount of income received by~~
30 ~~the official from this trust, divided into categories of dividends,~~
31 ~~rents, interest, and capital gains, and the overall market value of~~
32 ~~the trust, as specified by the trustee.~~

33 ~~SEC. 2. Section 87206 of the Government Code is amended~~
34 ~~to read:~~

35 ~~87206. If an investment or an interest in real property is~~
36 ~~required to be disclosed under this article, the statement shall~~
37 ~~contain:~~

38 ~~(a) A statement of the nature of the investment or the interest.~~

1 ~~(b) The name of the business entity in which each investment~~
2 ~~is held, and a general description of the business activity in~~
3 ~~which the business entity is engaged.~~

4 ~~(c) The address or other precise location of the real property.~~

5 ~~(d) A statement whether the fair market value of the~~
6 ~~investment or the interest in real property equals or exceeds two~~
7 ~~thousand dollars (\$2,000) but does not exceed ten thousand~~
8 ~~dollars (\$10,000), whether it exceeds ten thousand dollars~~
9 ~~(\$10,000) but does not exceed fifty thousand dollars (\$50,000),~~
10 ~~whether it exceeds fifty thousand dollars (\$50,000) but does not~~
11 ~~exceed one hundred thousand dollars (\$100,000), whether it~~
12 ~~exceeds one hundred thousand dollars (\$100,000) but does not~~
13 ~~exceed five hundred thousand dollars (\$500,000), whether it~~
14 ~~exceeds five hundred thousand dollars (\$500,000) but does not~~
15 ~~exceed one million dollars (\$1,000,000), whether it exceeds one~~
16 ~~million dollars (\$1,000,000) but does not exceed five million~~
17 ~~dollars (\$5,000,000), whether it exceeds five million dollars~~
18 ~~(\$5,000,000) but does not exceed ten million dollars~~
19 ~~(\$10,000,000), or whether it exceeds ten million dollars~~
20 ~~(\$10,000,000).~~

21 ~~(e) In the case of a statement filed under Sections 87203 or~~
22 ~~87204, if the investment or interest in real property was partially~~
23 ~~or wholly acquired or disposed of during the period covered by~~
24 ~~the statement, the date of acquisition or disposal.~~

25 ~~(f) For purposes of disclosure under this article, “interest in~~
26 ~~real property” does not include the principal residence of the filer~~
27 ~~or any other property which the filer utilizes exclusively as the~~
28 ~~personal residence of the filer.~~

29 ~~SEC. 3. Section 87207 of the Government Code is amended~~
30 ~~to read:~~

31 ~~87207. (a) When income is required to be reported under this~~
32 ~~article, the statement shall contain, except as provided in~~
33 ~~subdivision (b):~~

34 ~~(1) The name and address of each source of income~~
35 ~~aggregating five hundred dollars (\$500) or more in value, or fifty~~
36 ~~dollars (\$50) or more in value if the income was a gift, and a~~
37 ~~general description of the business activity, if any, of each~~
38 ~~source.~~

39 ~~(2) A statement whether the aggregate value of income from~~
40 ~~each source, or in the case of a loan, the highest amount owed to~~

1 each source, was at least five hundred dollars (\$500) but did not
2 exceed one thousand dollars (\$1,000), whether it was in excess of
3 one thousand dollars (\$1,000) but was not greater than ten
4 thousand dollars (\$10,000), whether it was greater than ten
5 thousand dollars (\$10,000) but not greater than fifty thousand
6 dollars (\$50,000), whether it was greater than fifty thousand
7 dollars (\$50,000) but was not greater than one hundred thousand
8 dollars (\$100,000), whether it was greater than one hundred
9 thousand dollars (\$100,000) but not greater than five hundred
10 thousand dollars (\$500,000), whether it was greater than five
11 hundred thousand dollars (\$500,000) but not greater than one
12 million dollars (\$1,000,000), whether it was greater than one
13 million dollars (\$1,000,000) but was not greater than five million
14 dollars (\$5,000,000), whether it was greater than five million
15 dollars (\$5,000,000) but was not greater than ten million dollars
16 (\$10,000,000), or whether it was greater than ten million dollars
17 (\$10,000,000):

18 (3) A description of the consideration, if any, for which the
19 income was received.

20 (4) In the case of a gift, the amount and the date on which the
21 gift was received.

22 (5) In the case of a loan, the annual interest rate, the security,
23 if any, given for the loan, and the term of the loan.

24 (b) When the filer's pro rata share of income to a business
25 entity, including income to a sole proprietorship, is required to be
26 reported under this article, the statement shall contain:

27 (1) The name, address, and a general description of the
28 business activity of the business entity.

29 (2) The name of every person from whom the business entity
30 received payments if the filer's pro rata share of gross receipts
31 from that person was equal to or greater than ten thousand dollars
32 (\$10,000) during a calendar year.

33 (c) When a payment, including an advance or reimbursement,
34 for travel is required to be reported pursuant to this section, it
35 may be reported on a separate travel reimbursement schedule
36 which shall be included in the filer's statement of economic
37 interest. A filer who chooses not to use the travel schedule shall
38 disclose payments for travel as a gift, unless it is clear from all
39 surrounding circumstances that the services provided were equal

1 to or greater in value than the payments for the travel, in which
2 ease the travel may be reported as income.

3 SEC. 4. ~~No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution because~~
5 ~~the only costs that may be incurred by a local agency or school~~
6 ~~district will be incurred because this act creates a new crime or~~
7 ~~infraction, eliminates a crime or infraction, or changes the~~
8 ~~penalty for a crime or infraction, within the meaning of Section~~
9 ~~17556 of the Government Code, or changes the definition of a~~
10 ~~crime within the meaning of Section 6 of Article XIII B of the~~
11 ~~California Constitution.~~

12 SEC. 5. ~~The Legislature finds and declares that the provisions~~
13 ~~of this act further the purposes of the Political Reform Act of~~
14 ~~1974 within the meaning of subdivision (a) of Section 81012 of~~
15 ~~the Government Code.~~